

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

WILLIE GRIFFIN, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-11-476-D
	)	
WARDEN KESSLER,	)	
	)	
Respondent.	)	

**ORDER**

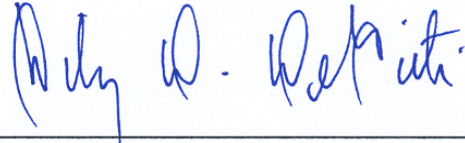
This matter is before the Court for review of the Report and Recommendation [Doc. No. 7] issued by United States Magistrate Judge Bana Roberts pursuant to 28 U.S.C. § 636(b)(1)(B)-(C). Judge Roberts recommends that the Petition seeking a writ of habeas corpus under 28 U.S.C. § 2241 be summarily dismissed upon filing because Petitioner's exclusive remedy is a motion under 28 U.S.C. § 2255 in the Northern District of Florida, where his sentence was imposed.

Petitioner has filed a timely written objection, arguing that he is entitled to seek relief from his federal sentence under 28 U.S.C. § 2241 based on an "actual innocence" exception. Petitioner claims he is actually innocent of the charged offense, a violation of 21 U.S.C. § 841(a)(1), because it is a nonexistent offense, and that he is actually innocent of a sentence enhancement. Further review of all other issues is waived. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996).

Upon *de novo* review of the issue of whether Petitioner may proceed in this forum under 28 U.S.C. § 2241 or whether his exclusive remedy is a § 2255 motion in the sentencing court, the Court fully concurs in Judge Roberts' analysis. The Court therefore adopts the Report and Recommendation in its entirety, as though fully set forth herein.

IT IS THEREFORE ORDERED that the Petition pursuant to 28 U.S.C. § 2241 is dismissed upon filing, without prejudice to the pursuit of any remedy that may be available under 28 U.S.C. § 2255. Judgment shall be entered accordingly.

IT IS SO ORDERED this 12<sup>th</sup> day of July, 2011.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE